

**Introduced by Senator Alquist**

February 25, 2009

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An act to amend Sections 290.05, 290.06, 290.07, and 1203 of the Penal Code, and to amend Section 706 of the Welfare and Institutions Code, relating to sex offenders.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 325, as introduced, Alquist. Sex offenders: assessments.

Existing law requires every person required to register as a sex offender to be subject to assessment by the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO). Existing law establishes the SARATSO Review Committee and directs the committee to ensure that the SARATSO reflects the most reliable, objective, and well-established protocols for predicting sex offender risk of recidivism, has been scientifically validated and cross validated, and is widely accepted by the courts. Existing law also requires the SARATSO Training Committee to develop a training program for persons authorized to perform the risk assessments. Under existing law, this training is required to be conducted by experts in the field of risk assessment and the use of actuarial instruments in predicting sex offender risk.

This bill would provide a protocol for an agency that scores the SARATSO and believes that a score does not represent the person's true risk level to submit the case to certain experts for possible override.

Existing law requires the Department of Corrections and Rehabilitation and the State Department of Mental Health to perform a risk assessment of every eligible person under their jurisdiction, as specified.

This bill would require those departments to each maintain a database to record the risk assessment scores of those persons, and to send those scores to the Department of Justice, to be maintained by the Sex Offender Tracking Program.

Existing law requires specified persons who administer the SARATSO to have access to all relevant records concerning a person on whom a risk assessment is being performed.

This bill would require any person acting under authority from the SARATSO Review Committee as an expert to also have access to those records.

Existing law requires probation officers to include in their probation reports information on the results of the SARATSO performed on any person required to register as a sex offender pursuant to certain provisions of law.

This bill would require probation officers to include that information on additional persons, including certain juveniles.

By requiring additional SARATSO assessments by county probation officers, this bill would impose a state-mandated local program.

Under existing law, after adjudging a minor to be a ward of the court, the court is required to hear evidence on the proper disposition of the minor. The court is required to receive in evidence the social study of the minor made by the probation officer, and other relevant and material evidence, as specified.

This bill would also require the court to receive in evidence the risk assessment score of the minor, if applicable.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 290.05 of the Penal Code is amended to  
2 read:

1 290.05. (a) The SARATSO Training Committee shall be  
2 comprised of a representative of the State Department of Mental  
3 Health, a representative of the Department of Corrections and  
4 Rehabilitation, a representative of the Attorney General's Office,  
5 and a representative of the Chief Probation Officers of California.

6 (b) On or before January 1, 2008, the SARATSO Training  
7 Committee, in consultation with the Corrections Standards  
8 Authority and the Commission on Peace Officer Standards and  
9 Training, shall develop a training program for persons authorized  
10 by this code to administer the SARATSO, as set forth in Section  
11 290.04.

12 (c) (1) The Department of Corrections and Rehabilitation shall  
13 be responsible for overseeing the training of persons who will  
14 administer the SARATSO pursuant to paragraph (1) or (2) of  
15 subdivision (a) of Section 290.06.

16 (2) The State Department of Mental Health shall be responsible  
17 for overseeing the training of persons who will administer the  
18 SARATSO pursuant to paragraph (3) of subdivision (a) of Section  
19 290.06.

20 (3) The Correction Standards Authority shall be responsible for  
21 developing standards for the training of persons who will  
22 administer the SARATSO pursuant to paragraph ~~(4)~~ or (5) or (6)  
23 of subdivision (a) of Section 290.06.

24 (4) The Commission on Peace Officer Standards and Training  
25 shall be responsible for developing standards for the training of  
26 persons who will administer the SARATSO pursuant to subdivision  
27 ~~(e)~~ (b) of Section 290.06.

28 (d) The training shall be conducted by experts in the field of  
29 risk assessment and the use of actuarial instruments in predicting  
30 sex offender risk. Subject to requirements established by the  
31 committee, the Department of Corrections and Rehabilitation, the  
32 State Department of Mental Health, probation departments, and  
33 authorized local law enforcement agencies shall designate key  
34 persons within their organizations to attend training and, as  
35 authorized by the department, to train others within their  
36 organizations designated to perform risk assessments as required  
37 or authorized by law. Any person who administers the SARATSO  
38 shall receive training no less frequently than every two years.

39 (e) *If the agency responsible for scoring the SARATSO believes*  
40 *an individual score does not represent the person's true risk level,*

1 *based on factors in the offender's record, the agency may submit*  
2 *the case to the experts retained by the SARATSO Review Committee*  
3 *to monitor the scoring of the SARATSO. Those experts shall be*  
4 *guided by empirical research in determining whether to raise or*  
5 *lower the risk level. Agencies that score the SARATSO shall*  
6 *develop a protocol for submission of risk level override requests*  
7 *to the experts retained in accordance with this subdivision.*

8 (e)

9 (f) The SARATSO may be performed for purposes authorized  
10 by statute only by persons trained pursuant to this section.

11 SEC. 2. Section 290.06 of the Penal Code is amended to read:

12 290.06. Effective on or before July 1, 2008, the SARATSO,  
13 as set forth in Section 290.04, shall be administered as follows:

14 (a) (1) The Department of Corrections and Rehabilitation shall  
15 assess every eligible person who is incarcerated in state prison.  
16 Whenever possible, the assessment shall take place at least four  
17 months, but no sooner than 10 months, prior to release from  
18 incarceration.

19 (2) The department shall assess every eligible person who is on  
20 parole *if the person was not assessed prior to release from state*  
21 *prison.* Whenever possible, the assessment shall take place at least  
22 four months, but no sooner than 10 months, prior to termination  
23 of parole. *The department shall record in a database the risk*  
24 *assessment scores of persons assessed pursuant to this paragraph*  
25 *and paragraph (1), and any risk assessment score that was*  
26 *submitted to the department by a probation officer pursuant to*  
27 *Section 1203.*

28 (3) The State Department of Mental Health shall assess every  
29 eligible person who is committed to that department. Whenever  
30 possible, the assessment shall take place at least four months, but  
31 no sooner than 10 months, prior to release from commitment. *The*  
32 *State Department of Mental Health shall record in a database the*  
33 *risk assessment scores of persons assessed pursuant to this*  
34 *paragraph and any risk assessment score that was submitted to*  
35 *the department by a probation officer pursuant to Section 1203.*

36 (4) *Commencing January 1, 2010, the Department of*  
37 *Corrections and Rehabilitation and the State Department of Mental*  
38 *Health shall send the scores obtained in accordance with*  
39 *paragraphs (2) and (3) respectively, to the Department of Justice*  
40 *Sex Offender Tracking Program not later than 30 days after the*

1 *date of the assessment. The risk assessment score of an offender*  
2 *shall be made part of his or her file maintained by the Department*  
3 *of Justice Sex Offender Tracking Program as soon as possible*  
4 *without financial impact, but no later than January 1, 2012.*

5 ~~(4)~~

6 (5) Each probation department shall assess every eligible person  
7 for whom it prepares a report pursuant to Section 1203.

8 ~~(5)~~

9 (6) Each probation department shall assess every eligible person  
10 under its supervision who was not assessed pursuant to paragraph  
11 ~~(4)~~ (5). The assessment shall take place prior to the termination of  
12 probation, but no later than January 1, 2010.

13 ~~(b) If a person required to be assessed pursuant to subdivision~~  
14 ~~(a) was assessed pursuant to that subdivision within the previous~~  
15 ~~five years, a reassessment is permissible but not required.~~

16 ~~(e) The SARATSO Review Committee established pursuant to~~  
17 ~~Section 290.04, in consultation with local law enforcement~~  
18 ~~agencies, shall establish a plan and a schedule for assessing eligible~~  
19 ~~persons not assessed pursuant to subdivision (a). The plan shall~~  
20 ~~provide for adult males to be assessed on or before January 1,~~  
21 ~~2012, and for females and juveniles to be assessed on or before~~  
22 ~~January 1, 2013, and it shall give priority to assessing those persons~~  
23 ~~most recently convicted of an offense requiring registration as a~~  
24 ~~sex offender. On or before January 15, 2008, the committee shall~~  
25 ~~introduce legislation to implement the plan.~~

26 (b) *Eligible persons not assessed pursuant to subdivision (a)*  
27 *may be assessed as follows:*

28 (1) *Upon request of the law enforcement agency in the*  
29 *jurisdiction in which the person is registered pursuant to Sections*  
30 *290 to 290.023, inclusive, the person shall be assessed. The law*  
31 *enforcement agency may enter into a memorandum of*  
32 *understanding with a probation department to perform the*  
33 *assessment. In the alternative, the law enforcement agency may*  
34 *arrange to have personnel trained to perform the risk assessment*  
35 *in accordance with subdivision (d) of Section 290.05.*

36 (2) *Eligible persons not assessed pursuant to subdivision (a)*  
37 *may request that a risk assessment be performed. A request form*  
38 *shall be available at registering law enforcement agencies. The*  
39 *person requesting the assessment shall pay a fee for the assessment*  
40 *that shall be sufficient to cover the cost of the assessment. The risk*

1 *assessment so requested shall be performed either by the probation*  
2 *department, if a memorandum of understanding is established*  
3 *between the law enforcement agency and the probation department,*  
4 *or by personnel who have been trained to perform risk assessment*  
5 *in accordance with subdivision (d) of Section 290.05.*

6 ~~(d)~~

7 (c) On or before January 1, 2008, the SARATSO Review  
8 Committee shall research the appropriateness and feasibility of  
9 providing a means by which an eligible person subject to  
10 assessment may, at his or her own expense, be assessed with the  
11 SARATSO by a governmental entity prior to his or her scheduled  
12 assessment. If the committee unanimously agrees that such a  
13 process is appropriate and feasible, it shall advise the Governor  
14 and the Legislature of the selected tool, and it shall post its decision  
15 on the Department of Corrections and Rehabilitation's Internet  
16 Web site. Sixty days after the decision is posted, the established  
17 process shall become effective.

18 ~~(e)~~

19 (d) For purposes of this section, "eligible person" means a person  
20 who was convicted of an offense that requires him or her to register  
21 as a sex offender pursuant to Section 290 and who ~~has not been~~  
22 ~~assessed with the SARATSO within the previous five years is~~  
23 *eligible for assessment, pursuant to the official Coding Rules*  
24 *designated for use with the risk assessment instrument by the*  
25 *author of any risk assessment instrument (SARATSO) selected by*  
26 *the SARATSO Review Committee.*

27 (e) *Persons authorized to perform risk assessments pursuant to*  
28 *this section, Section 1203, and Section 706 of the Welfare and*  
29 *Institutions Code shall be immune from liability for good faith*  
30 *conduct under this act.*

31 SEC. 3. Section 290.07 of the Penal Code is amended to read:

32 290.07. Notwithstanding any other provision of law, any person  
33 authorized by statute to administer the State Authorized Risk  
34 Assessment Tool for Sex Offenders and trained pursuant to Section  
35 290.06, *and any person acting under authority from the SARATSO*  
36 *Review Committee as an expert to train, monitor, or review scoring*  
37 *by persons who administer the SARATSO pursuant to Section*  
38 *290.05 or 1203 of this code or Section 706 of the Welfare and*  
39 *Institutions Code, shall be granted access to all relevant records*  
40 *pertaining to a registered sex offender, including, but not limited*

1 to, criminal histories, sex offender registration records, police  
2 reports, probation and presentencing reports, judicial records and  
3 case files, juvenile records, psychological evaluations and  
4 psychiatric hospital reports, sexually violent predator treatment  
5 program reports, and records that have been sealed by the courts  
6 or the Department of Justice. Records and information obtained  
7 under this section shall not be subject to the California Public  
8 Records Act, Chapter 3.5 (commencing with Section 6250) of  
9 Division 7 of Title 1 of the Government Code.

10 SEC. 4. Section 1203 of the Penal Code is amended to read:

11 1203. (a) As used in this code, “probation” means the  
12 suspension of the imposition or execution of a sentence and the  
13 order of conditional and revocable release in the community under  
14 the supervision of a probation officer. As used in this code,  
15 “conditional sentence” means the suspension of the imposition or  
16 execution of a sentence and the order of revocable release in the  
17 community subject to conditions established by the court without  
18 the supervision of a probation officer. It is the intent of the  
19 Legislature that both conditional sentence and probation are  
20 authorized whenever probation is authorized in any code as a  
21 sentencing option for infractions or misdemeanors.

22 (b) (1) Except as provided in subdivision (j), if a person is  
23 convicted of a felony and is eligible for probation, before judgment  
24 is pronounced, the court shall immediately refer the matter to a  
25 probation officer to investigate and report to the court, at a specified  
26 time, upon the circumstances surrounding the crime and the prior  
27 history and record of the person, which may be considered either  
28 in aggravation or mitigation of the punishment.

29 (2) (A) The probation officer shall immediately investigate and  
30 make a written report to the court of his or her findings and  
31 recommendations, including his or her recommendations as to the  
32 granting or denying of probation and the conditions of probation,  
33 if granted.

34 (B) Pursuant to Section 828 of the Welfare and Institutions  
35 Code, the probation officer shall include in his or her report any  
36 information gathered by a law enforcement agency relating to the  
37 taking of the defendant into custody as a minor, which shall be  
38 considered for purposes of determining whether adjudications of  
39 commissions of crimes as a juvenile warrant a finding that there

1 are circumstances in aggravation pursuant to Section 1170 or to  
2 deny probation.

3 (C) If the person was convicted of an offense that requires him  
4 or her to register as a sex offender pursuant to ~~Section 290~~ *Sections*  
5 *290 to 290.023, inclusive, or if the probation report recommends*  
6 *that registration be ordered at sentencing pursuant to Section*  
7 *290.006*, the probation officer's report shall include the results of  
8 the State-Authorized Risk Assessment Tool for Sex Offenders  
9 (SARATSO) administered pursuant to Sections 290.04 to 290.06,  
10 inclusive, if applicable.

11 (D) The probation officer shall also include in the report his or  
12 her recommendation of both of the following:

13 (i) The amount the defendant should be required to pay as a  
14 restitution fine pursuant to subdivision (b) of Section 1202.4.

15 (ii) Whether the court shall require, as a condition of probation,  
16 restitution to the victim or to the Restitution Fund and the amount  
17 thereof.

18 (E) The report shall be made available to the court and the  
19 prosecuting and defense attorneys at least five days, or upon request  
20 of the defendant or prosecuting attorney nine days, prior to the  
21 time fixed by the court for the hearing and determination of the  
22 report, and shall be filed with the clerk of the court as a record in  
23 the case at the time of the hearing. The time within which the report  
24 shall be made available and filed may be waived by written  
25 stipulation of the prosecuting and defense attorneys that is filed  
26 with the court or an oral stipulation in open court that is made and  
27 entered upon the minutes of the court.

28 (3) At a time fixed by the court, the court shall hear and  
29 determine the application, if one has been made, or, in any case,  
30 the suitability of probation in the particular case. At the hearing,  
31 the court shall consider any report of the probation officer,  
32 including the results of the SARATSO, if applicable, and shall  
33 make a statement that it has considered the report, which shall be  
34 filed with the clerk of the court as a record in the case. If the court  
35 determines that there are circumstances in mitigation of the  
36 punishment prescribed by law or that the ends of justice would be  
37 served by granting probation to the person, it may place the person  
38 on probation. If probation is denied, the clerk of the court shall  
39 immediately send a copy of the report to the Department of



1 Corrections and Rehabilitation at the prison or other institution to  
2 which the person is delivered.

3 (4) The preparation of the report or the consideration of the  
4 report by the court may be waived only by a written stipulation of  
5 the prosecuting and defense attorneys that is filed with the court  
6 or an oral stipulation in open court that is made and entered upon  
7 the minutes of the court, except that there shall be no waiver unless  
8 the court consents thereto. However, if the defendant is ultimately  
9 sentenced and committed to the state prison, a probation report  
10 shall be completed pursuant to Section 1203c.

11 (c) If a defendant is not represented by an attorney, the court  
12 shall order the probation officer who makes the probation report  
13 to discuss its contents with the defendant.

14 (d) If a person is convicted of a misdemeanor, the court may  
15 either refer the matter to the probation officer for an investigation  
16 and a report or summarily pronounce a conditional sentence. If  
17 the person was convicted of an offense that requires him or her to  
18 register as a sex offender pursuant to ~~Section~~ Sections 290 to  
19 290.023, inclusive, or if the probation officer recommends that the  
20 court, at sentencing, order the offender to register as a sex offender  
21 pursuant to Section 290.006, the court shall refer the matter to the  
22 probation officer for the purpose of obtaining a report on the results  
23 of the State-Authorized Risk Assessment Tool for Sex Offenders  
24 administered pursuant to Sections 290.04 to 290.06, inclusive, if  
25 applicable, which the court shall consider. If the case is not referred  
26 to the probation officer, in sentencing the person, the court may  
27 consider any information concerning the person that could have  
28 been included in a probation report. The court shall inform the  
29 person of the information to be considered and permit him or her  
30 to answer or controvert the information. For this purpose, upon  
31 the request of the person, the court shall grant a continuance before  
32 the judgment is pronounced.

33 (e) Except in unusual cases where the interests of justice would  
34 best be served if the person is granted probation, probation shall  
35 not be granted to any of the following persons:

36 (1) Unless the person had a lawful right to carry a deadly  
37 weapon, other than a firearm, at the time of the perpetration of the  
38 crime or his or her arrest, any person who has been convicted of  
39 arson, robbery, carjacking, burglary, burglary with explosives,  
40 rape with force or violence, torture, aggravated mayhem, murder,

1 attempt to commit murder, trainwrecking, kidnapping, escape from  
2 the state prison, or a conspiracy to commit one or more of those  
3 crimes and who was armed with the weapon at either of those  
4 times.

5 (2) Any person who used, or attempted to use, a deadly weapon  
6 upon a human being in connection with the perpetration of the  
7 crime of which he or she has been convicted.

8 (3) Any person who willfully inflicted great bodily injury or  
9 torture in the perpetration of the crime of which he or she has been  
10 convicted.

11 (4) Any person who has been previously convicted twice in this  
12 state of a felony or in any other place of a public offense which,  
13 if committed in this state, would have been punishable as a felony.

14 (5) Unless the person has never been previously convicted once  
15 in this state of a felony or in any other place of a public offense  
16 which, if committed in this state, would have been punishable as  
17 a felony, any person who has been convicted of burglary with  
18 explosives, rape with force or violence, torture, aggravated  
19 mayhem, murder, attempt to commit murder, trainwrecking,  
20 extortion, kidnapping, escape from the state prison, a violation of  
21 Section 286, 288, 288a, or 288.5, or a conspiracy to commit one  
22 or more of those crimes.

23 (6) Any person who has been previously convicted once in this  
24 state of a felony or in any other place of a public offense which,  
25 if committed in this state, would have been punishable as a felony,  
26 if he or she committed any of the following acts:

27 (A) Unless the person had a lawful right to carry a deadly  
28 weapon at the time of the perpetration of the previous crime or his  
29 or her arrest for the previous crime, he or she was armed with a  
30 weapon at either of those times.

31 (B) The person used, or attempted to use, a deadly weapon upon  
32 a human being in connection with the perpetration of the previous  
33 crime.

34 (C) The person willfully inflicted great bodily injury or torture  
35 in the perpetration of the previous crime.

36 (7) Any public official or peace officer of this state or any city,  
37 county, or other political subdivision who, in the discharge of the  
38 duties of his or her public office or employment, accepted or gave  
39 or offered to accept or give any bribe, embezzled public money,  
40 or was guilty of extortion.

1 (8) Any person who knowingly furnishes or gives away  
2 phencyclidine.

3 (9) Any person who intentionally inflicted great bodily injury  
4 in the commission of arson under subdivision (a) of Section 451  
5 or who intentionally set fire to, burned, or caused the burning of,  
6 an inhabited structure or inhabited property in violation of  
7 subdivision (b) of Section 451.

8 (10) Any person who, in the commission of a felony, inflicts  
9 great bodily injury or causes the death of a human being by the  
10 discharge of a firearm from or at an occupied motor vehicle  
11 proceeding on a public street or highway.

12 (11) Any person who possesses a short-barreled rifle or a  
13 short-barreled shotgun under Section 12020, a machinegun under  
14 Section 12220, or a silencer under Section 12520.

15 (12) Any person who is convicted of violating Section 8101 of  
16 the Welfare and Institutions Code.

17 (13) Any person who is described in paragraph (2) or (3) of  
18 subdivision (g) of Section 12072.

19 (f) When probation is granted in a case which comes within  
20 subdivision (e), the court shall specify on the record and shall enter  
21 on the minutes the circumstances indicating that the interests of  
22 justice would best be served by that disposition.

23 (g) If a person is not eligible for probation, the judge shall refer  
24 the matter to the probation officer for an investigation of the facts  
25 relevant to determination of the amount of a restitution fine  
26 pursuant to subdivision (b) of Section 1202.4 in all cases where  
27 the determination is applicable. The judge, in his or her discretion,  
28 may direct the probation officer to investigate all facts relevant to  
29 the sentencing of the person. Upon that referral, the probation  
30 officer shall immediately investigate the circumstances surrounding  
31 the crime and the prior record and history of the person and make  
32 a written report to the court of his or her findings. The findings  
33 shall include a recommendation of the amount of the restitution  
34 fine as provided in subdivision (b) of Section 1202.4.

35 (h) If a defendant is convicted of a felony and a probation report  
36 is prepared pursuant to subdivision (b) or (g), the probation officer  
37 may obtain and include in the report a statement of the comments  
38 of the victim concerning the offense. The court may direct the  
39 probation officer not to obtain a statement if the victim has in fact  
40 testified at any of the court proceedings concerning the offense.

(i) No probationer shall be released to enter another state unless his or her case has been referred to the Administrator of the Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4) and the probationer has reimbursed the county that has jurisdiction over his or her probation case the reasonable costs of processing his or her request for interstate compact supervision. The amount and method of reimbursement shall be in accordance with Section 1203.1b.

(j) In any court where a county financial evaluation officer is available, in addition to referring the matter to the probation officer, the court may order the defendant to appear before the county financial evaluation officer for a financial evaluation of the defendant's ability to pay restitution, in which case the county financial evaluation officer shall report his or her findings regarding restitution and other court-related costs to the probation officer on the question of the defendant's ability to pay those costs.

Any order made pursuant to this subdivision may be enforced as a violation of the terms and conditions of probation upon willful failure to pay and at the discretion of the court, may be enforced in the same manner as a judgment in a civil action, if any balance remains unpaid at the end of the defendant's probationary period.

(k) Probation shall not be granted to, nor shall the execution of, or imposition of sentence be suspended for, any person who is convicted of a violent felony, as defined in subdivision (c) of Section 667.5, or a serious felony, as defined in subdivision (c) of Section 1192.7, and who was on probation for a felony offense at the time of the commission of the new felony offense.

SEC. 5. Section 706 of the Welfare and Institutions Code is amended to read:

706. After finding that a minor is a person described in Section 601 or 602, the court shall hear evidence on the question of the proper disposition to be made of the minor. The court shall receive in evidence the social study of the minor made by the probation officer and any other relevant and material evidence that may be offered, including any written or oral statement offered by the victim, the parent or guardian of the victim if the victim is a minor, or if the victim has died or is incapacitated, the victim's next of kin, as authorized by subdivision (b) of Section 656.2. *In addition,*

1 *if the probation officer has recommended that the minor be*  
2 *transferred to the Department of Corrections and Rehabilitation,*  
3 *Division of Juvenile Justice pursuant to an adjudication for an*  
4 *offense requiring him or her to register as a sex offender pursuant*  
5 *to Section 290.008 of the Penal Code, the SARATSO selected*  
6 *pursuant to subdivision (d) of Section 290.04 of the Penal Code*  
7 *shall be used to assess the minor, and the court shall receive that*  
8 *risk assessment score into evidence. In any judgment and order of*  
9 *disposition, the court shall state that the social study made by the*  
10 *probation officer has been read and that the social study and any*  
11 *statement has been considered by the court.*

12 SEC. 6. If the Commission on State Mandates determines that  
13 this act contains costs mandated by the state, reimbursement to  
14 local agencies and school districts for those costs shall be made  
15 pursuant to Part 7 (commencing with Section 17500) of Division  
16 4 of Title 2 of the Government Code.